



## Rule and Interpretive/Policy Statement Review Checklist

This form is to be used when the current version of the rule or interpretive or policy statement has not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.

Document Reviewed: **WAC 458-20-22802 Electronic Funds Transfer**

Date last adopted/issued: **April 13, 2001**

Reviewer: **Gayle Carlson**

Date review completed: **January 30, 2004**

Briefly explain the subject matter of the document(s):

**This rule explains the electronic funds transfer (EFT) requirement for certain taxpayers paying certain excise taxes and meeting a tax liability threshold. The threshold is currently set at \$240,000 in taxes per year. The rule provides provisions for the EFT program such as: taxpayer requirements, taxes covered, and types of EFT payment methods.**

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

### 1. Public requests for review:

| YES | NO       |                                                                                                                    |
|-----|----------|--------------------------------------------------------------------------------------------------------------------|
|     | <b>X</b> | Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request? |

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

### 2. Need:

| YES      | NO       |                                                                                                                                                                                                                                                        |
|----------|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>X</b> |          | Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?) |
|          | <b>X</b> | Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?                                                                                                                 |
| <b>X</b> |          | Have the laws changed so that the document should be revised or repealed? (If the response is "yes" that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)                             |
| <b>X</b> |          | Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of                                                                                                     |



|  |                                                                                                                                |
|--|--------------------------------------------------------------------------------------------------------------------------------|
|  | Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.) |
|--|--------------------------------------------------------------------------------------------------------------------------------|

Please explain.

- **Taxpayers that have an annual tax liability of \$240,000 or more on the excise tax return are required to make their payments by electronic funds transfer (EFT). Other taxpayers may voluntarily pay their excise taxes using EFT. The Department of Revenue was directed, by statute, to adopt rules necessary to implement the EFT process.**
- **Since the rule was last revised, a new 5% penalty has been implemented by chapter 13, Laws of 2003, 1st sp.s. This penalty is invoked if the taxpayer underpays their taxes due and the Department issues an assessment. The rule does cover penalties, but currently could mislead taxpayers into thinking that if the return and payment are timely there will be no penalty if it is later determined that additional taxes are due.**
- **Chapter 13, Laws of 2003, 1st sp.s., also changed the due date for monthly filers from the 25th to the 20th of the month. The example given in (7)(b) needs to be changed.**

### 3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

(a)

| YES | NO |                                                                                                                                                                                                                                                                                                               |
|-----|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | X  | Are there any interpretive or policy statements that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)                                                                                                    |
|     | X  | Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.) |
|     | X  | Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?                                                                                                                                 |
|     | X  | Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?                                                                                                                                                          |

(b)

| YES | NO |                                                                           |
|-----|----|---------------------------------------------------------------------------|
|     |    | Should this interpretive or policy statement be incorporated into a rule? |



|  |  |                                                                                                                                                                     |
|--|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  | Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document? |
|  |  | Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?            |

If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

**As mentioned in the last review, when rule 22802 is next revised, information from the following should be incorporated:**

- **BTA Dockets #50371 and 50854 (combined) issued in 1998 --Taxpayers may not avoid their statutory requirement for payment by EFT by reason of their bank's limitations.**

**Note: This may no longer be needed. Due to technological advances banks should have the ability to process electronic payments.**

#### 4. Clarity and Effectiveness:

| YES | NO |                                                                                                                                                                                                                                                                                                      |
|-----|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| X   |    | Is the document written and organized in a clear and concise manner?                                                                                                                                                                                                                                 |
|     | X  | Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)                                                                                                                                                    |
|     | X  | Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities or help ensure that the tax law and/or exemptions are consistently applied?) |
|     | X  | Do changes in industry practices warrant repealing or revising this document?                                                                                                                                                                                                                        |
| X   |    | Do administrative changes within the Department warrant repealing or revising this document?                                                                                                                                                                                                         |

Please explain.

- **This rule is written in a clear and concise manner. Both taxpayers and the Department staff rely on it.**
- **In section (4) Taxes Covered, it is mentioned that county tax on telephone access lines (chapter 82.14B RCW) and enhanced food fish tax (chapter 82.27 RCW) are excluded from the taxes reported on the excise tax return and thus not required to be paid by EFT. These taxes are now reported on the return or by an addendum that accompanies the return.**



**5. Intent and Statutory Authority:**

| YES | NO |                                                                                                                                                                                                                                                                                                                                               |
|-----|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| X   |    | Does the Department have sufficient authority <b>to adopt</b> this document? (Cite the statutory authority in the explanation below.)                                                                                                                                                                                                         |
| X   |    | Is the document consistent with the legislative intent of the statute(s) that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed <b>to implement</b> ?) If “no,” identify the specific statute and explain below. List all statutes being implemented in Section 9, below.) |
| X   |    | Is there a need to recommend legislative changes to the statute(s) being implemented by this document?                                                                                                                                                                                                                                        |

Please explain.

- **RCW 82.32.300 and 82.01.060(2) authorize the Department to write and publish rules.**
- **RCW 82.32.085 states the Department shall adopt rules necessary to implement the EFT process.**
- **RCW 82.32.080 indicates that taxes imposed by a number of chapters are exceptions to reporting by EFT. The statute explains that the intent is to require electronic funds transfer for those taxes reported on the Department's combined excise tax return or any successor return. References referring to Chapters 82.14B and 82.27 RCW being exempt should be deleted because these taxes are now reported on the return or by an addendum that accompanies the return.**

**6. Coordination:** Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

| YES | NO |                                                                                                                                               |
|-----|----|-----------------------------------------------------------------------------------------------------------------------------------------------|
|     | X  | Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency? |

Please explain.

- **RCW 82.32.080 indicates the specific taxes that require electronic payments be made. The Department has exclusive authority for administering the excise taxes and the electronic filing process addressed in this rule.**

**7. Cost:** When responding, consider only the costs imposed by the document being reviewed and not by the statute.

| YES | NO |                                                                                                                                                                                                                  |
|-----|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | X  | Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.) |



Please explain.

- **This is an interpretive rule that imposes no new or additional administrative burdens on businesses that are not already imposed by the law.**

**8. Fairness:** When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

| YES | NO |                                                                                                                                                                   |
|-----|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| X   |    | Does the document result in equitable treatment of those required to comply with it?                                                                              |
|     | X  | Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?                                                           |
|     | X  | Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community? |

Please explain.

- **Rule 22802 defines and clarifies the EFT process required for use by certain taxpayers and voluntarily used by others. It helps to ensure equitable treatment through consistent application of the underlying statute and the EFT process.**

**9. LISTING OF DOCUMENTS REVIEWED:** Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA) decisions, and Appeals Division decisions (WTDs) should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented:

- **RCW 82.32.080 Payment by check--Electronic funds transfer--Rules--Mailing returns or remittances--Time extension--Deposits--Records--Payment must accompany return.**
- **RCW 82.32.085 Electronic funds transfer--Generally.**

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs): **None.**

Court Decisions: **None.**

Board of Tax Appeals Decisions (BTAs): **None.**

Appeal Division Decisions (WTDs):

- **Det. 00-018, 19 WTD 708 Confirms EFT due dates and late payment penalties.**
- **Det. 99-302, 19 WTD 497 Concerns timeliness of penalty waiver request, and whether a penalty should be waived.**



- **Det. 01-131, 21 WTD 42** Concerns late penalty when payment is by check and should have been by EFT. Also, can the 24 month provision for penalty waiver be used?
- **Det. 01-103, 21 WTD 128** Confirms penalty when taxpayer denied knowledge of requirement to pay electronically.

Attorney General Opinions (AGOs): **None.**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

- **RCW 82.32.060 Excess payment of tax, penalty, or interest--Credit or refund--Payment of judgments for refund.**
- **RCW 82.32.087 Direct Pay Permits.**
- **Documents found on the Department's Intranet and Internet.**

#### 10. Review Recommendation:

|                     |                                                                                                                                                       |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>  <b>X</b>  </u> | <b>Amend</b>                                                                                                                                          |
| <u>      </u>       | <b>Repeal/Cancel</b> (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.) |
| <u>      </u>       | <b>Leave as is</b> (Appropriate even if the recommendation is to incorporate the current information into another rule.)                              |
| <u>      </u>       | <b>Begin the rule-making process for possible revision.</b> (Applies only when the Department has received a petition to revise a rule.)              |

**Explanation of recommendation:** Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, and court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, and court decisions).

**The recommendation is to amend Rule 22802. Since the rule was last revised the 5% underpayment penalty has been imposed. The rule currently discusses penalties and taxpayers could be misled into thinking that a penalty will not be assessed if a timely but incorrect payment is made.**

**Another change since the last revision is the due date for monthly filers. The due date has been moved from the 25th to the 20th of each month. An example in this rule uses the old due date.**



**When revised, the references to "combined excise tax return" should be changed to "excise tax return."**

**11. Manager action:** Date: February 19, 2004

AL Reviewed and accepted recommendation

Amendment priority (to be completed by manager):

       1  
       2  
  X   3  
       4